

Minutes of the New Jersey Health Care Facilities Financing Authority meeting held on February 28, 2008 on the fourth floor of Building #4, Station Plaza, 22 South Clinton Avenue, Trenton, New Jersey.

The following **Authority Members** were in attendance:

Gus Escher, Public Member (Chairing as Vice Chairman); Ulysses Lee, Public Member; Maryann Kralik, Designee of the Commissioner of Banking and Insurance; William Conroy, Designee of the Commissioner of Health and Senior Services; and, Eileen Stokley, Designee of the Commissioner of Human Services.

The following **Authority staff members** were in attendance:

Mark Hopkins, Dennis Hancock, Jim VanWart, Steve Fillebrown, Lou George, Bill McLaughlin, Suzanne Walton, Bob Day, Mae Jeffries-Grant, Michael Ittleson, Ron Marmelstein, Terry Seremeta, and Stephanie Bilovsky.

The following **representatives from State offices and/or the public** were in attendance:

Ed Tetelman, Department of Health and Senior Services; Bob Glenning, Hackensack University Medical Center; David Kostinas, DICA; Victor Radina, Citigroup; James Brant, Underwood Memorial Hospital; Jack Robinson, Marian Speid, Cindy Johnson, St. Joseph's Healthcare System; Karen Lumppp, Atlantic Health System; Isabel Miranda, Gluck Walrath; John Brodsky, Fairmount Capital; Carl Underland, Bob McKeown, Carlisle & Associates; John Littig, Michael Zuckerman, John Colosimo, Aon Risk Services; Don Caccia, Joe McCarthy, AtlantiCare Health System; Dustan McNichol, Star-Ledger; Scott Kobler, McCarter & English; Dennis LaMotte, JPMorgan; John Bitar, Maryann Kicenuik, Windels Marx Lane & Mittendorf; Sharon Price-Cates, Governor's Authorities Unit; and, Cliff Rones, Deputy Attorney General.

## **CALL TO ORDER**

Mr. Escher called the meeting to order at 10:04 a.m. and announced that this was a regular meeting of the Authority, held in accordance with the schedule adopted at the May 24, 2007 Authority meeting. Complying with the Open Public Meetings Act and the Authority's By-laws, notice of this meeting was delivered to all newspapers with mailboxes at the Statehouse, including *The Star-Ledger* and the *Courier Post*, enough in advance to permit the publication of an announcement at least 48 hours before the meeting.

## **APPROVAL OF MINUTES**

### **A. December 18, 2007 Authority Meeting**

Minutes from the Authority's December 18, 2007 meeting had been presented for approval at the January meeting. Since six members attended the December meeting, four votes from Members who attended were required to approve the minutes. In January, Mr. Lee, Ms. Kralik, and Mr. Escher voted for their approval, however, as new representatives, both Bill Conroy and Barbara

Waugh abstained from the vote. At this point, both Mr. Conroy and Ms. Stokley stated that they would amend their respective votes to allow for the approval of these minutes. The vote was unanimous and the minutes were approved.

***B. January 24, 2007 Authority Meeting***

Minutes for the Authority's January 24, 2007 Authority meeting were distributed for review and approval. Mr. Conroy offered a motion to approve the minutes; Mr. Lee seconded. Mr. Escher voted yes, Mr. Lee voted yes, Ms. Kralik voted yes, Ms. Stokley abstained, Mr. Conroy voted yes. The minutes were approved.

***OLD/NEW BUSINESS***

***Resolution of Appreciation for Ed Tetelman***

Mr. Escher noted that Bill Conroy was named as the Authority's Designee for the Commissioner of Health and Senior Services. He replaces long-term Authority friend, Ed Tetelman, who served as a Designee for a total of seventeen years. Mr. Escher then read the Resolution of Appreciation prepared for Ed Tetelman.

Ms. Stokley offered a motion to approve the resolution of appreciation; Mr. Lee seconded. The vote was unanimous and the motion carried.

**AB RESOLUTION NO. HH-99**

*(attached)*

Mr. Tetelman stood to say that both the leaders of the Authority and the staff have done a fantastic job over the years to make capital available to the state's health care organizations. Throughout his work in health care policy, Mr. Tetelman has seen the health care industry evolve in many ways. In particular, he noted the transition towards ensuring that health care is accessible for lower income families and he recalled working with Kay Fern when she was Executive Director of this Authority to ensure such provisions many years ago.

He stated that it has been a pleasure to work with this Authority to help better New Jersey's health care community over many bumpy roads. He added that this is admittedly a difficult time for New Jersey's hospitals, yet, as happened in the past, the system will adjust and continue to evolve to best meet the needs of the state and its people. He applauded the Authority's creative solutions and thanked the staff and Membership for helping him to make good decisions.

Mr. Escher noted that a framed copy of this resolution will be mailed to him in honor of his tenure with the Authority.

***TEFRA HEARING & CONTINGENT BOND SALE***

***St. Joseph's Hospital & Medical Center***

Mr. Escher announced that the following portion of the meeting will be considered a public hearing in connection with the proposed issuance of bonds on behalf of St. Joseph's Hospital & Medical Center. This hearing is taking place in accordance with the public notice and approval requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended.

Project Manager Lou George introduced Jack Robinson, CFO at St. Joseph's Hospital and Medical Center, and Cindy Johnson, Administrative Director, Business Development and

Decision Support. He indicated that staff was working on a transaction for St. Joseph's and that today he'd like to request consideration of a contingent sale of bonds in an amount not to exceed \$260 million.

He reported that the proceeds of the bonds would be used at the St. Joseph's Paterson facility to: construct and equip a 4-story building, including an emergency department, twelve operating rooms, a sterile services facility, two critical care units and a helicopter landing pad; create a new lobby and other ground floor improvement; renovate a portion of the 275 Hospital Plaza Building to be used for pediatric and adult clinical services; and, make other renovations and equipment acquisitions. At the St. Joseph's Wayne facility, proceeds will be used to renovate, expand and equip two of its operating rooms and renovate and equip the intensive care, critical care, and various other units at the hospital. Proceeds would also be used to refund: the Authority's outstanding Series 1996 A bonds, the Authority's outstanding Composite Program Series 2003 A-6 bonds, and a loan from Valley National Bank used to prepay a promissory note issued in connection with the acquisition of the Wayne facility. Finally proceeds would fund a debt service reserve fund, and pay the related costs of issuance.

He further indicated that the Series 2008 bonds will be sold as a public offering of fixed rate bonds. He noted that some members were aware that the Medical Center had financial difficulties several years ago. New management had been hired and new procedures had been implemented to effect a financial turn-around. However, AMBAC, the insurer of their 1996 bond issue, has been unwilling to allow the Medical Center to issue any new debt. As a result, the Medical Center requested that the Authority allow a refunding of all of their outstanding indebtedness, acknowledging that there would likely be no savings, and issue bonds for the new money project.

Mr. George indicated that the bonds will most likely be rated "BBB-" from Standard & Poors Corporation and "Ba1" (non-investment grade) from Moody's Investors Service based upon the credit of the System. Staff will continue to conduct due diligence on the transaction up until the mailing of both the Preliminary Official Statement and the Official Statement. Normally when there are non-investment grade ratings the bonds are issued in denominations of \$100,000 or more. The Senior Managing Underwriter indicated that such a large denomination would make the bonds less attractive to the investment community and result in a higher interest rate to the Medical Center. As a result, the underwriter and the Medical Center asked the Authority to consider the issuance in \$5,000 denominations and this is the denomination reflected in the Series Resolution.

He also noted that the Medical Center received the basic zoning and other approvals needed to begin the construction project. Mr. George introduced Maryann Kicenuik of Windels Marx Lane & Mittendorf to provide an overview of the Series Resolution.

### **SERIES RESOLUTION**

Maryann Kicenuik, Esq., of Windels Marx Lane & Mittendorf, LLP stated that the Series Resolution authorizes the issuance of the tax-exempt Series 2008 Bonds in an aggregate principal amount not in excess of \$260,000,000, at an interest cost not to exceed 8%. The Series 2008 bonds would have a final maturity date of no later than July 1, 2048 and the Redemption price on the Bonds would not exceed 104%. The Series 2008 Bonds are payable from payments to be made by St. Joseph's Hospital and Medical Center and St. Joseph's Wayne Hospital Inc. under a Loan Agreement together with investment income held by the Trustee. The obligation to repay the loan would be evidenced by a Note issued pursuant to a Master Trust Indenture and Supplemental Indenture, which Note would be secured by a pledge of gross receipts and a mortgage on both the Paterson and Wayne facilities from the members of the obligated group.

In addition, the Series Resolution approves the form of and authorizes the execution of a Bond Purchase Contract prior to close of business on May 21, 2008. The Series Resolution also approves the distribution of and “deemed final” nature of the Preliminary Official Statement, the form of the Bonds, Official Statement, Loan Agreement, Letters of Instruction including an authorization to subscribe for SLGS and Bond Purchase Contract. The Series Resolution also appoints The Bank of New York as Trustee, Bond Registrar, and Paying Agent for the Series 2008 Bonds. In addition, it authorizes the Authorized Officers to execute and deliver such other documents and to take such other action as may be necessary or appropriate to effectuate the execution and delivery of the Loan Agreement, the Bond Purchase Contract and the issuance and sale of the Series 2008 Bonds.

Ms. Stokley asked if the Authority has ever issued \$5,000 denominations before, to which staff responded that \$5,000 is actually the standard for Authority investment grade bonds. When issuing bonds with a non-investment grade rating, however, the Authority seeks to issue in the higher denomination of \$100,000 or more. Mr. Escher asked if the Authority’s policy states that a borrower have at least one investment grade rating, to which Ms. Kicenuik stated that it is the Preliminary Official Statement for this transaction that is conditioned upon the fact that there be at least one investment grade rating.

Mr. Hancock stated that the Authority’s policy directs the Authority to seek \$100,000 or more denominations for issues that are non-investment grade, however, the Authority has the discretion to issue \$5,000 denominations if it receives a letter from the underwriter explaining the risks of using the higher denominations and a letter of request from the hospital. Both of these have been received by the Authority and distributed for the Members’ review with regard to the proposed St. Joseph’s issuance.

As a public hearing, Mr. Escher asked if there were any comments from the public or the borrower representatives. Mr. Robinson stood to say that the Authority has been very helpful for St. Joseph’s during some difficult times in the past and said that it is thankful to the staff and Membership for their continued help in getting the hospital back on track.

Mr. Escher asked the Members’ pleasure with respect to the adoption of the Series Resolution. Mr. Conroy moved that the document be approved. Ms. Stokley seconded. The vote was unanimous and the motion carried.

#### **AB RESOLUTION NO. HH-100**

NOW, THEREFORE, BE IT RESOLVED, that the Authority hereby approves the Series Resolution entitled, “A RESOLUTION AUTHORIZING THE ISSUANCE OF NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY REVENUE BONDS, ST. JOSEPH’S HEALTHCARE SYSTEM OBLIGATED GROUP ISSUE, SERIES 2008.”

#### **CO-MANAGERS**

Mark Hopkins reminded the Members that the Authority’s policy “reserves the right to select firm(s), from its qualified list, to serve as co-managing underwriter(s) for its financings. Co-manager(s) will be selected by the Authority, based on demonstrated ability to distribute New Jersey securities of comparable credit quality, sufficient capital to participate in underwriting the issue, and borrower preference(s).”

CitiGroup Global Markets is the senior managing underwriter for the St. Joseph’s Health Care System transaction, which is anticipated to total approximately \$245 million. After taking into consideration the structure of the financing and St. Joseph’s anticipated ratings, staff

suggests the use of two co-managers. To complement the senior managing underwriter, staff recommended adding J.B. Hanauer & Co. and Prager, Sealy & Co. as co-managers.

Because the recommended co-managers meet the selection criteria, Mr. Hopkins asked the Members to consider appointing J.B. Hanauer & Co. and Prager, Sealy & Co. as co-managers for the St. Joseph's Health Care bonds.

Ms. Stokley moved to appoint the recommended co-managers; Mr. Conroy seconded. The vote was unanimous and the motion carried.

#### **AB RESOLUTION NO. HH-101**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby appoints J.B. Hanauer & Co. and Prager, Sealy & Co. to serve as co-managers for the St. Joseph's Hospital & Medical Center transaction.

Mr. Escher wished St. Joseph's Hospital & Medical Center luck with the sale and then closed the public hearing required by Section 147(f) of the Internal Revenue Code of 1986, as amended.

#### ***DELEGATION TO AUTHORIZED OFFICER TO CONSENT TO CONVERSION OF AUCTION RATE BONDS***

Mark Hopkins began by thanking Maryann Kicenuik and Gary Walsh (both from Windels Marx Lane & Mittendorf) as well as Clifford Rones for their outstanding work and quick turn around on this proposed resolution which will help the Authority's borrowers to avoid some losses during the auction rate market crisis.

He then stated that, in response to the crisis in the auction rate bond market, as described in Dennis Hancock's memo distributed to the Members in advance of the meeting, staff requests the Members' consideration of a resolution delegating to an Authorized Authority Officer the ability to consent to a conversion of auction rate bonds to either fixed rate bonds or variable rate demand bonds. This global delegation would give the seven Authority borrowers with outstanding auction rate bonds maximum flexibility in converting those bonds quickly in order to avoid the exorbitant interest rates resulting from the unstable auction rate bond market.

Mr. Hopkins noted that bond documents for each of the auction rate bonds provide for conversions, usually with the requirement that the Authority consent to or approve the conversion. The Attorney General opined that action by the Authority Members is necessary when the term "approval of the Authority" is used. The proposed resolution delegates that consent to an Authorized Officer of the Authority.

All other requirements for conversion of the bonds under the bond documents would still have to be met to the satisfaction of the Authority's bond counsel, the Attorney General's office, the underwriter, underwriter's counsel and the Authority's Authorized Officer.

Mr. Hopkins reminded the Members that, in the case of an auction rate conversion request, a delay in approval can substantially impact the interest cost incurred by the borrower. In order to facilitate the timely approval of a conversion request, as permitted by the documents, staff requested that authority be delegated to an authorized officer of the Authority to, upon the request of a borrower, approve or consent to the conversion and deliver such other documents as may be required and necessary to effectuate such conversion.

The firm of Windels Marx Lane & Mittendorf prepared a resolution providing for such delegation, which had been distributed to the Members in advance of the meeting. The Attorney General's office reviewed the proposed resolution and with no objection.

Mr. Hancock noted that the resolution had been updated with some recommendations from the Deputy Attorney General's office, and he noted that the final updated version had been placed on the table before the Members. The changes recommended by the Authority's Deputy Attorney General, Cliff Rones, primarily occurred in sections four, five, and six and largely had the intention of adding parameters. Mr. Escher asked if the changes were substantive, to which Mr. Rones stated that the changes more narrowly focused the resolution. The Members reviewed their updated versions.

Ms. Kralik asked if a statement could be added to the resolution requiring that the Authority be informed of any action taken by the authorized officer at the following Authority meeting. Mr. Rones suggested that the following could be added to Section 7: "Any actions taken by an Authorized Officer pursuant to the terms of this Resolution shall be reported to the Authority at its succeeding meeting." Ms. Kralik, as well as the other Members, approved of the added language.

It was then noted that the updated version does include a December 31, 2008 expiration, which Mr. Rones stated was added because the Attorney General's office views this as an emergency measure rather than something that would be appropriate on an ongoing basis.

Ms. Kralik moved that the Authority approve the recommended resolution, with the changes noted during this meeting; Mr. Escher seconded. The vote was unanimous and the motion carried.

#### **AB RESOLUTION NO. HH-102** *(attached)*

#### ***APPROVAL OF SUPPLEMENT TO SERIES RESOLUTION*** ***Hackensack University Medical Center***

After introducing Bob Glenning, Executive Vice President and Chief Financial Officer at Hackensack University Medical Center ("HUMC"), Mr. George reminded the Members that, at the January meeting, a contingent sale of bonds was approved on behalf of HUMC in an aggregate amount not to exceed \$150 million for construction of a new Cancer Center and a Parking Garage.

He reported that the Preliminary Official Statement was ready for distribution when the auction rate securities market collapsed. In light of the auction rate market situation, HUMC, which has almost \$150 million of auction rate bonds outstanding, consulted with Authority staff and decided to temporarily shelve the Preliminary Official Statement and request the Authority's consideration of a supplemental resolution that would include the refunding of Hackensack's 2004 auction rate debt as part of the previously approved transaction.

A Supplemental Resolution was distributed that authorizes the refunding of all or a portion of the Series 2004 bonds and increases the previous authorization to an aggregate amount not to exceed \$300 million, exclusive of any original issue discount. It also authorizes the Series 2008 bonds to be issued in one or more sub series and the purchase of State and Local Government Series securities for deposit into any escrow account that may be established under a letter or instruction. Except for the size of the issue, all the other normally included contingencies from the Series Resolution approved last month will remain the same.

Mr. George noted that the Series 2008 bonds will be sold as a public offering of fixed rate bonds. HUMC received an insurance commitment from Assured Guaranty in an amount of \$187 million. While it is anticipated that the bonds for the new construction project will be insured, only a portion of the refunding bonds will be insured. The remaining refunding bonds will be issued on HUMC's credit, which is rated "A-" by Fitch Ratings and "A3" by Moody's Investors Services, Inc.

Mr. George then added that John Bitar and Maryann Kicenuik from Windels Marx Lane & Mittendorf, LLP (bond counsel who prepared the Resolution) were also in attendance to answer any questions.

Mr. Conroy asked about the financial impact of the auction rate activity on HUMC, should this transaction not be approved. Mr. Glenning responded that HUMC's auctions have been failing fairly regularly, maxing out at over 5% due to their LIBOR-based maximum rate that is linked to AMBAC's credit rating. The fear is that, with the deterioration of AMBAC's rating, this limit and, therefore HUMC's rates, would climb. Mr. George reminded the Members that the collapse of this market is, at least in part, related to credit insurers' falling ratings, including that of AMBAC.

Mr. Hopkins then clarified that HUMC is pursuing a pure refinancing of its auction rate bonds rather than a conversion.

Mr. Conroy moved to adopt the requested Supplement to the Series Resolution on behalf of Hackensack University Medical Center. Ms. Stokley seconded. The vote was unanimous and the motion carried.

#### **AB RESOLUTION NO. HH-103**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves the document entitled, "SUPPLEMENT TO SERIES RESOLUTION AUTHORIZING THE ISSUANCE OF NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY REVENUE BONDS HACKENSACK UNIVERSITY MEDICAL CENTER ISSUE, SERIES 2008" (attached).

#### **Expedited Review**

Mr. Escher stated that Hackensack University Medical Center requests an expedited review of this portion of the minutes. Mr. Conroy then made a motion authorizing the Assistant Secretary to execute a certified copy of minutes from the portion of the meeting to be forwarded to the Governor for his consideration of these actions; Ms. Stokley seconded. The vote was unanimous and the motion carried.

### ***NEGOTIATED SALE REQUESTS & INFORMATIONAL PRESENTATIONS***

#### ***A. Atlantic Health System***

Mr. Hopkins reported that, in light of the cost of any delay in issuing refunding bonds due to the current crisis in the auction rate bond market and the relative minor analysis required for bonds issued solely for a refunding, this presentation will serve as both a negotiated sale request and an informational presentation. He then stated that Atlantic Health System ("AHS") is requesting a pure refunding of auction rate bonds and introduced Karen Lumpp, Corporate Director of AHS Special Projects.

AHS signed a Memorandum of Understanding with the Authority to undertake a tax-exempt financing of approximately \$370 million, the proceeds of which will be used to currently

refund the Authority's auction rate bonds issued on behalf of AHS in 2003, 2004, 2006 and 2007, as well as to pay related costs of issuance and to fund a debt service reserve fund, if needed.

Mr. Hopkins described AHS as a New Jersey not for profit organization with several subsidiary and affiliated organizations. Among its subsidiaries is AHS Hospital Corporation which has, among other entities, two divisions operating as hospitals, namely Morristown Memorial Hospital in Morristown and Overlook Hospital in Summit. Overlook also operates a satellite emergency department at the former Union Hospital. AHS sold its Mountainside Hospital during 2007.

The Authority issued a total of \$352,375,000 in bonds on behalf of AHS in four separate series in 2003, 2004, 2006 and 2007. Approximately \$61,875,000, \$21,900,000, \$150,000,000 and \$101,000,000 (totaling \$334,775,000) remain outstanding, respectively, as of December 31, 2007. All of those bonds will be defeased by the 2008 bonds. In 1997, the Authority also issued two series of bonds for AHS, totaling \$186,570,000 which have since been defeased or refunded.

Mr. Hopkins reported that, according to the consolidated audited financial statements provided with the Memorandum of Understanding, after considering losses from operations of the discontinued Mountainside Hospital of \$51 million in 2006 and \$10 million in 2005, AHS generated a deficiency of revenues over expenses of approximately \$3.3 million for 2006 and an excess of revenues over expenses of approximately \$30.1 million for 2005. Unaudited information for 2007 shows that, after taking a loss from operations of the discontinued Mountainside Hospital of \$10 million, AHS still generated excess revenues over expenses of approximately \$41.3 million.

AHS asked that the Authority permit the use of a negotiated sale based on: the sale of a complex financing structure including those transactions that involve the simultaneous sale of more than one series with each series structured differently; volatile market conditions; large issue size; and the expected use of variable rate debt. Since these reasons are considered under the Authority's Executive Order #26 policy to be justifications for the use of a negotiated sale, staff recommended the consideration of the resolution approving the use of a negotiated sale and the forwarding of a copy of the justification in support of said resolution to the State Treasurer.

Mr. Hopkins added that, after performing a competitive process when bonds were issued on its behalf in 2007, AHS selected Goldman Sachs & Co. as Senior Managing Underwriter for those bonds. Due to the urgency and costs of leaving these auction rate bonds outstanding, as well as the fact that AHS very recently completed a competitive process for its 2007 bonds, unless there is an objection from the Authority, AHS selected Goldman Sachs as the Senior Managing Underwriter for the 2008 bonds based on its 2007 process. AHS requested and received the Attorney General's approval to have Windels, Marx, Lane & Mittendorf serve as bond counsel on the financing

Mr. Conroy moved to adopt the resolution approving the pursuit of a negotiated sale on behalf of Atlantic Health System, and the forwarding of a copy of the justification in support of said resolution to the State Treasurer. Ms. Stokley seconded. The vote was unanimous and the motion carried.

**AB RESOLUTION NO. HH-104**  
*(attached)*



## ***B. Underwood Memorial Hospital***

Mr. Hopkins stated that the following presentation will also serve as both a negotiated sale request and an informational presentation and said that this is also a case of a pure refunding of auction rate bonds. Then he introduced James Brant, Senior Vice President and Chief Financial Officer for Underwood Memorial Hospital (“Underwood”). Underwood signed a Memorandum of Understanding with the Authority to undertake a tax-exempt financing of approximately \$70 million, the proceeds of which will be used to currently refund its 2004 Authority auction rate bonds, to pay related costs of issuance and to fund a debt service reserve fund, if needed.

Mr. Hopkins described Underwood as a New Jersey not for profit acute care hospital located in Woodbury with 305 licensed beds, maintaining 217 beds.

The Authority issued a total of \$65,300,000 in bonds on Underwood’s behalf in 2004; approximately \$63,000,000 remained outstanding as of December 31, 2007. All of those bonds will be defeased by the 2008 bonds. In 1977 and 1993, the Authority also issued of bonds for Underwood, totaling \$32,610,000, both of which have since been defeased or refunded.

According to the audited financial statements provided with the Memorandum of Understanding, Underwood generated excess of revenues over expenses of approximately \$13 million for 2006 and approximately \$12.9 million for 2005. Unaudited information for 2007 shows Underwood generating excess revenues over expenses of approximately \$3.2 million, continuing its recent history of positive bottom line results. However, Underwood noted that although there was an overall gain in 2007, there was a loss from operations of approximately \$4.5 million, resulting from slightly lower volumes and increased expenses. The operational loss was exacerbated by lower than expected non-operating revenue as a result of the impact of the falling stock market on Underwood’s investment portfolio.

Underwood asked that the Authority permit the use of a negotiated sale based on: the sale of a complex financing structure including those transactions that involve the simultaneous sale of more than one series with each series structured differently; volatile market conditions; and the expected use of variable rate debt. Since these reasons are considered under the Authority’s Executive Order #26 policy to be justifications for the use of a negotiated sale, staff recommended the consideration of the resolution approving the use of a negotiated sale and the forwarding of a copy of the justification in support of said resolution to the State Treasurer.

Mr. Hopkins added that, after performing a competitive process, Underwood selected UBS Securities as Senior Managing Underwriter for its bonds. Underwood also requested and received the Attorney General’s approval to have Wilentz, Goldman & Spitzer, P.A. serve as bond counsel on the financing

Ms. Stokley moved to adopt the resolution approving the pursuit of a negotiated sale on behalf of Underwood Memorial Hospital, and the forwarding of a copy of the justification in support of said resolution to the State Treasurer. Mr. Lee seconded. The vote was unanimous and the motion carried.

## **AB RESOLUTION NO. HH-105**

*(attached)*

## ***SELF-INSURANCE REQUEST***

### ***AtlantiCare Health System***

Susan Tonry began by introducing Don Caccia (Corporate Director Risk Financing) and Joe McCarthy (Corporate Director of Finance) from AtlantiCare Health System, and Mike Zuckerman and John Littig from Aon Risk Services. She then explained that AtlantiCare Health System (“AtlantiCare”) includes AtlantiCare Regional Medical Center with divisions in Atlantic City and Pomona, as well as AtlantiCare Behavioral Health, AtlantiCare Foundation, AtlantiCare Health Plans and InfoShare.

AtlantiCare currently purchases its general liability coverage from Princeton Insurance Company (“Princeton”) with limits of \$1 million per occurrence and a \$1 million aggregate; as well as hospital professional liability with limits of \$1 million per occurrence and a \$3 million aggregate. Excess insurance of \$15 million is also covered by Princeton. Ms. Tonry stated that AtlantiCare requests approval to use “English Creek Assurance Ltd,” a wholly-owned, captive insurance company domiciled in Bermuda to insure and fund two policies. The first is for general and hospital professional liability at limits of \$1 million per occurrence with a \$3 million aggregate. The second policy is for each employed physician with limits of \$1 million per occurrence and a \$3 million aggregate. The second policy has an overall policy aggregate of \$10 million. Anesthesiologists, trauma surgeons and obstetricians may retain higher limits within the captive or included in the reinsured excess.

According to Ms. Tonry, excess coverage will continue to be purchased at current limits of \$15 million or higher. The captive may be used for this coverage as well, in order to access the broader insurance markets; however, the captive would be reinsured by “A-” or higher rated reinsurers, as rated by A.M. Best. The proposed effective date for implementation of the captive is April 14, 2008.

AtlantiCare believes the captive will provide long term, stable and cost effective risk financing, and will provide greater control of claims and elevate the Risk Management function within the AtlantiCare System.

Ms. Tonry stated that AtlantiCare plans to fund the captive with \$8 million cash, which is approximately double the amount of losses forecasted by their actuaries at the 90% confidence level discounted at 5%. This is well in excess of the forecasted losses of \$2.6 million discounted at 5% and \$3 million on an undiscounted basis. AtlantiCare is capitalizing in excess of statutory requirements in order to allow for the stability of annual premiums and to ensure that the company is financially sound. As of third quarter 2007, AtlantiCare had nearly \$315 million in cash and board designated funds representing over 268 days cash on hand.

Existing Loan Agreements for AtlantiCare contain the AM Best rating requirement. AtlantiCare is not requesting any amendments to the documents at this time.

Based on an earlier review by staff, Ms. Tonry then recommended the Members’ consideration for approving the insurance plan presented on behalf of AtlantiCare Health System.

Mr. Lee noted that, as a new captive, this entity does not currently have a rating. He asked if AtlantiCare intends to pursue a rating for this captive. Ms. Tonry stated that AtlantiCare is not requesting any amendment to the Authority’s current documents, and those documents require that the captive pursue a rating within a certain amount of time. She noted that AtlantiCare may wish to revisit the Authority before that time expires to amend the Loan Agreement with respect to this requirement, however, at this time, AtlantiCare is agreeing to that requirement.

Mr. Escher moved to approve the insurance plan presented for AtlantiCare Health System. Mr. Lee seconded. Mr. Escher voted yes, Mr. Lee voted yes, Ms. Kralik abstained, Ms. Stokley voted yes, and Mr. Conroy voted yes. The motion carried.

**AB RESOLUTION NO. HH-106**

**NOW, THEREFORE, BE IT RESOLVED**, that, the Authority approves the use of the proposed captive insurance program on behalf of AtlantiCare Health System; and,

**BE IT FURTHER RESOLVED**, that, such approval is conditioned upon compliance with the Authority's reporting requirements for captive and/or self-insurance programs, as the requirements are presently incorporated in the Authority's loan agreements, including the obligation to maintain a required rating, as stated in the attached "AMENDMENT TO ALL RESOLUTIONS IN WHICH THE AUTHORITY APPROVES A BORROWER'S REQUEST TO USE A SELF-INSURANCE/CAPTIVE PROGRAM, THUS MANDATING COMPLIANCE WITH NJHCFFA REPORTING REQUIREMENTS".

***COMMITTEE FINDINGS ON INSURANCE COVENANT***

Ms. Tonry reminded the Members that, in November 2003, the Authority passed a resolution requiring all self-insurance and captive programs to obtain a Qualified Insurance rating by an insurance rating agency such as AM Best annually within nine months of the program's fiscal year end. The sole remedy for failure to acquire this rating was to revert back to commercial insurance, of which the New Jersey market offers limited choices. This requirement was incorporated in all Loan Agreements since that time.

Over the past four years, this requirement has been very difficult for borrowers often for reasons outside their control. Experience has shown that: 1) A.M. Best cannot and will not provide a rating for self-insurance trusts, 2) some captives cannot achieve a rating high enough to satisfy the requirements of the Insurance Covenant due to the financial profile of the hospital, no matter how much money is put in the captive, and 3) some captives can achieve the required rating but only by making material additional contributions to the captive that could be detrimental to the hospital.

Furthermore, in trying to satisfy the Insurance Covenant, borrowers have had to go against the advice of their insurance consultants, actuaries and auditors to far exceed the funding required by the regulators in the various states and countries of domicile.

Ms. Tonry reported that, as a result of the retreat discussions in June, a committee was formed at the request of the Members. The committee, which included various industry professionals, identified a set of guidelines for a new Insurance Covenant. The committee agreed that, first and foremost, complete disclosure of existing insurance programs must be made in the Official Statement. Thereafter, any change to the disclosed plan must be approved by the Authority with specific requirements to be met. This new covenant provides choices that allow a borrower to find an acceptable level of compliance that meets the needs and rights of the bondholder, as well as the business strategy of the borrower.

Note, in the new covenant, use of the word 'primary' is intended to refer to first \$1 million per occurrence with a \$1 million aggregate for General Liability and \$1 million per occurrence with a \$3 million aggregate for Hospital Professional Liability or such other level

that is considered customary and reasonable at the time. The following is a summary of the proposed Insurance Covenant's specifics.

- If a change is made from commercial insurance to a self-insurance or captive program at the primary insurance level, the Authority reserves the right to permit the change and require certain conditions be met at all times including: setting minimum funding requirements; requiring professional certifications be addressed to and delivered to the Authority, trustee and the borrower on an annual basis; and, requiring an unqualified audit opinion on the self-insurance or captive insurance program. Also, approval on hospital professional liability would be limited to employed physicians only.
- Alternately, the borrower continues to have the option of providing a Qualified Insurance Rating from an insurance rating agency, such as AM Best.
- If the borrower cannot maintain minimum funding standards or provide the annual certifications, or if it chooses to include non-employed physicians in its program, it must get the qualified insurance rating on its program or purchase commercial insurance for the primary level.

This proposal is very similar to the covenant used during the past few months on new bond issues during which the rating requirement was being waived and whereby reliance on professional certification was introduced as a viable alternative to the rating requirement. The differences incorporated in this covenant, as proposed by the committee, strengthen the certification and approval process, and are as follows:

- A specific minimum funding amount has been set.
- The insurance consultant must address the ENTIRE insurance structure, not only the coverage provided by the self-insurance or captive program in its certification to the Authority, trustee and borrower.
- Approvals granted for hospital professional liability will be limited to employed physicians, no voluntary attending physicians will be approved.

Under the new Insurance Covenant:

- (1) The minimum funding level must be maintained, though, funding levels required at commencement of a new program may be higher than minimum standards in order for approval to be granted.
- (2) Professional certifications are required to be delivered to the Authority, trustee and borrower on an annual basis from both the actuary (indicating that funding meets the Authority's requirements and provides the assumptions relied upon by the actuary in its determination); and counsel (that the program is in compliance with the laws and regulations of the state or country of domicile and is not in contravention to New Jersey's laws and regulations).
- (3) Also on an annual basis, the borrower must provide evidence to the Authority, trustee and borrower that the program has been audited and received an unqualified opinion.
- (4) Approval for hospital professional liability will continue to be limited to coverage for employed physicians only.

Mr. Conroy asked if the Attorney General's office had reviewed the covenant. Mr. Rones stated that he had been provided a copy of the document, though he will not express an opinion on it as it is a matter of policy.

Mr. Escher commended staff for taking the more challenging policy items discussed at the retreat to outside parties for assistance and input. He asked if some the Authority's borrowers who experienced problems with the previous policy had seen the proposed covenant and found it more manageable. Ms. Tonry stated that some of those hospitals who had troubles with the prior policy were active participants in the creation of this new covenant and noted that, overall, they liked this new policy because it allows them to rely on their hired professionals (actuaries and insurance consultants). Mr. Hopkins noted that the New Jersey Hospital Association also had an active participant on the committee.

Mr. Lee suggested that, when reviewing the options in this covenant, a hospital is much more likely to use the second option for professional certification rather than the more difficult task of acquiring a rating. He asked if it would be appropriate to note a preference for the borrower to pursue a rating on its self-insurance or captive insurance program, to which Ms. Tonry stated that the new covenant was designed to give the borrower a choice and to address situations whereby the borrower would not be able to obtain the required rating for reasons explained earlier.

Ms. Tonry further stated that because this new covenant addresses changes to insurance plans that occur after an Official Statement has been issued, the change is subject to Authority approval and the borrower will be held accountable to the requirements in this new covenant as a condition of approval. Additionally, because the Authority will be approving these requests, additional funding requirements at commencement could be required as necessary for additional security during the most vulnerable years of start up.

Mr. Hopkins added that should a borrower contend that their program is secure with funding below the minimum funding level, they can choose to go to a rating agency to get affirmation that the plan is secure at their funding level. He agreed that, yes, most hospitals will likely pursue the professional certification as opposed to the rating, but he stated that he hesitates to suggest preferring one over the other in the policy.

Mr. Lee asked staff to revisit the issue and the events occurring in the insurance rating market in a year or so to confirm that this policy is still the Authority's best option. Mr. Hopkins and Ms. Tonry agreed that such a review would be prudent.

Mr. Escher moved to adopt the proposed Insurance Covenant and to include it in all Authority Loan Agreements going forward. Mr. Conroy seconded. Ms. Kralik noted for the record that, though the Department of Banking and Insurance has reviewed the proposed covenant and found no major difficulties with it, she will be abstaining from the vote due to the Department of Banking and Insurance's regulatory role in the industry. Mr. Escher voted yes, Mr. Lee voted yes, Ms. Kralik abstained, Ms. Stokley voted yes, and Mr. Conroy voted yes. The motion carried.

#### **AB RESOLUTION NO. HH-107**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby adopts the attached form off the "INSURANCE COVENANT" and will include it in all Authority Loan Agreements going forward, replacing the previous insurance covenant; and,

**BE IT FURTHER RESOLVED**, that, going forward, the requirements of the new covenant will replace the requirements of the "AMENDMENT TO ALL RESOLUTIONS IN WHICH THE AUTHORITY APPROVES A BORROWER'S REQUEST TO USE A SELF-INSURANCE/CAPTIVE

PROGRAM, THUS MANDATING COMPLIANCE WITH NJHCFFA REPORTING REQUIREMENTS.”

#### ***AMENDMENT TO LOAN AGREEMENT***

##### ***Holy Name Hospital***

Bob Day reported that Holy Name Hospital requests the Authority’s approval of a Second Amendment and Supplement to the Loan and Security Agreement and Mortgage to the Hospital’s Series 1997 Bonds. He reminded the Members that in November 2006, Holy Name entered into a Guaranty, Suretyship and Security Agreement, and Intercreditor Agreement with the Bank of America, which guaranteed the payment of certain obligations of FitnessFirst Oradell Center, L.L.C.

Pursuant to the existing agreement and mortgage, Holy Name requested the approval of AMBAC Assurance Corporation the insurer of the Series 1997 bonds. AMBAC requested that certain changes be made to the current agreement, namely: (1) a change in the calculation of the applicable percentage for Holy Name’s guaranteed obligations when determining debt service requirements, and (2) requiring that Holy Name not entrust any of its funds with a banking institution to which Holy Name is obligated for borrowed money, unless the banking institution has relinquished its statutory or contractual right of setoff.

Mr. Day stated that the Attorney General’s office reviewed the request with no objection. Ms. Stokley asked if the requested action will adversely affect the bondholders, to which Mr. Day stated that the proposed resolution actually improves the bondholders’ position by increasing their security. Mr. Escher moved to approve the Second Amendment and Supplement to the Loan and Security Agreement and Mortgage to Holy Name Hospital’s Series 1997 Bonds; Mr. Conroy seconded. The vote was unanimous and the motion carried.

#### **AB RESOLUTION NO. HH-108**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves the Resolution entitled, “RESOLUTION AUTHORIZING A ‘SECOND AMENDMENT AND SUPPLEMENT TO THE LOAN AND SECURITY AGREEMENT AND MORTGAGE DATED AS OF MARCH 15, 1997’ BY AND AMONG THE AUTHORITY, HOLY NAME HOSPITAL AND THE BANK OF NEW YORK, AS TRUSTEE” (attached).

#### ***FACSIMILE SIGNATURE RESOLUTIONS AND SIGNATURE CARDS***

Mr. Escher reported that the Authority needs to update its check signatories and banking resolutions to reflect the Authority’s new Chairperson, Heather Howard. Mr. Conroy made a motion to adopt new facsimile signature resolutions reflecting the Authority’s recent changes in Membership. Mr. Escher seconded. The vote was unanimous and the motion carried.

#### **AB RESOLUTION NO. HH - 109**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby adopts facsimile signature resolutions, reflecting the addition of new Chairman Heather Howard.

## ***AUTHORITY EXPENSES***

Mr. Escher referenced a summary of Authority expenses and invoices. Mr. Lee offered a motion to approve the bills and to authorize their payment; Ms. Stokley seconded. The vote was unanimous and the motion carried.

### **AB RESOLUTION NO. HH-110**

**WHEREAS**, the Authority has reviewed memoranda dated February 21, 2008, summarizing all expenses incurred by the Authority in connection with FHA Mortgage Servicing, Trustee/Escrow Agent/Paying Agent fees, and general operating expenses in the amounts of \$607,438.21, \$146,282.48 and \$69,996.21 respectively, and has found such expenses to be appropriate;

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves all expenses as submitted and authorizes the execution of checks representing the payment thereof.

## ***STAFF REPORTS***

Mr. Escher thanked staff for their preparation of staff reports, including the Project Development Summary, Cash Flow Statement, and Legislative Advisory were distributed to the Members. Mr. Hopkins then offered the following items in his Executive Director's Report:

1. The *Commission on Rationalizing New Jersey's Health Care Resources* issued its final report on January 24th. The report is available on the Commission's website and hard copies were provided to the Authority Members.
2. In Hospital News:
  - a. **St. Mary's Hospital** has not yet finalized an agreement to sell its Pennington Avenue Campus. A final agreement is pending conditions resulting from a recently completed Phase II environmental report and remediation plan. One interested party expects to reach a decision by the end of this week. At least two other parties have also expressed interest. St. Mary's management has received a \$2 million extension of its accounts receivable loan and is pursuing an additional bridge loan financing secured by the Pennington Avenue property. Cash flow statements show that the \$2 million loan increase will prevent St. Mary's from experiencing a liquidity crisis until late March early April. A successful sale of the Pennington Avenue campus or a bridge loan will be needed to avoid a potential liquidity crisis after that time.
  - b. The State Health Planning Board ("SHPB") heard **Liberty Health Care's** request to close **Greenville Hospital** again on February 7th. The SHPB previously postponed its recommendation of the closure request when Jersey City offered to give Greenville \$1.5 million to keep it running for six months. Liberty Health turned down Jersey City's offer saying that it would be detrimental to the system as a whole and resubmitted its request to close Greenville Hospital. The SHPB voted to approve the closure of Greenville but gave the city a limited time to identify possible purchasers for Greenville. The Commissioner of Health and Senior Services has yet to act on the SHPB's recommendation.

c. Regarding the **Barnert Hospital** bankruptcy, after failing to find a buyer satisfactory to the hospital and creditors on January 28th, Barnert closed all services except its emergency room and behavioral health services, and no debtor-in-possession loan was approved. On February 19th, after seeing very few patients, the emergency room at Barnert also closed. The Bankruptcy Court again heard bids for Barnert on February 25th and continued the hearing until today so that the hospital could continue to negotiate with the bidders. The U.S. Department of Housing and Urban Development has contingently agreed to provide some limited funding from its reserves to maintain behavioral health, security and a skeleton staff at Barnert for a short period of time.

d. Regarding the **Bayonne Medical Center** bankruptcy, the purchase of Bayonne Medical Center by IJG, LLC was completed in the beginning of February. With the able assistance of the Authority's Deputy Attorney General, Cliff Rones, the Authority received a Loan Assumption Agreement and Note and a First Mortgage on the parking garage from IJG Propco, LLC. The Authority has also entered into an intercreditor agreement with Kimco, who holds a second mortgage on the parking garage and a first mortgage on the other hospital property. IJG worked out a settlement with OIG for the outlier liability of Bayonne, which will allow IJG to assume Bayonne's provider number. IJG has been working with NW Capital on a plan to market bonds proposed to be issued through the Authority. Staff expects to see an informational presentation at the next Authority meeting and, possibly, a request for approval of a private placement of the bonds.

Mr. Escher asked about the approximate size of the expected bond request, to which Mr. Hopkins stated that the number staff has received so far is in the \$34-35 million range, allowing for the repayment of the \$17.5 million Kimco loan and the \$2.5 million Authority loan, as well as the provision of working capital and some capital improvements.

e. Regarding the **Pascack Valley Hospital** bankruptcy, the auction which was originally scheduled to take place on February 4th was rescheduled for yesterday. **Hackensack University Medical Center** and Touro Medical College jointly submitted the winning bid at \$45 million. The bondholders will get almost all of the proceeds of the sale after commissions. The anticipated use will be as a satellite emergency room and a medical school. A hearing to approve the sale is scheduled for March 18th. Hackensack and Touro hope to complete the transaction by March 31st.

f. A suit brought by the family members of hospital patients killed by nurse Charles Cullen has been settled by four New Jersey hospitals and one Pennsylvania hospital. **Hunterdon Medical Center, Somerset Medical Center, St. Barnabas Medical Center, and Warren Hospital** are the New Jersey hospitals that reached the settlement last week.

g. On February 25, 2008, **Hackensack University Medical Center** was identified as one of the top 50 hospitals in the country by HealthGrades, a leading independent health care rating organization.



3. Because of the currently low variable rates and the fact that the related bonds were issued before the requirement for arbitrage rebate, the rate charged to borrowers in February under the Authority's Capital Asset Program loans was 0%.

4. Staff suggested scheduling Special Meetings on dates already tentatively scheduled for Finance Committee meetings in March and April. This will provide additional flexibility for borrowers seeking to convert or refund auction rate bonds. Staff also expects one or two other requests from borrowers for special meetings for other time sensitive matters. The Special Authority meeting dates staff proposes would be Tuesday, March 11th at 10:00 a.m. and Tuesday, April 8th at 10:00 a.m., both would be here at the Authority's offices. Authority Members are welcome to attend by phone or in person. If there is no objection, staff will provide notice of these meetings to the appropriate outlets. If there turns out to be no need for one or both of the proposed Special Meetings the Authority Members will be notified and there is no harm in having provided the notice.

As there was no further business to be addressed, Mr. Conroy moved to adjourn the meeting, Mr. Lee seconded. The vote was unanimous, and the motion carried at 11:20 a.m.

I HEREBY CERTIFY THAT THE  
FOREGOING IS A TRUE COPY OF  
MINUTES OF THE NEW JERSEY  
HEALTH CARE FACILITIES  
FINANCING AUTHORITY MEETING  
HELD ON FEBRUARY 28, 2007.

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Dennis Hancock  
Assistant Secretary

## **AB RESOLUTION NO. HH-99**

### **RESOLUTION OF APPRECIATION**

*Edward Tetelman*

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**WHEREAS**, the New Jersey Health Care Facilities Financing Authority (“Authority”) was created through the enactment of Chapter 29, Laws of New Jersey 1972, which was amended in January of 1998 to ensure that all health care organizations have access to financial resources to improve the health and welfare of the citizens of the State; and,

**WHEREAS**, the Authority is governed by a seven-member board, three of whom are ex-officio; the Commissioner of Health and Senior Services, who serves as chairman, the Commissioner of Human Services, and the Commissioner of Banking and Insurance; and,

**WHEREAS**, any of the ex-officio members may designate others to represent them; and,

**WHEREAS**, on October 25, 1990, Edward Tetelman was designated by Alan J. Gibbs, Commissioner of Human Services, to serve as his official representative to the New Jersey Health Care Facilities Financing Authority; and,

**WHEREAS**, Mr. Tetelman was then successively designated by the following Commissioners of Human Services: William Waldman, Michele Guhl, James W. Smith, Jr., and Gwendolyn L. Harris; and,

**WHEREAS**, in the spring of 2002, Mr. Tetelman moved to the Department of Health and Senior Services to serve as Public Guardian for the Office of the Public Guardian for the Elderly Adults; and,

**WHEREAS**, Mr. Tetelman was then designated by the Commissioner of Health and Senior Services, Clifton R. Lacy, M.D., to serve as his official representative to the Authority, and was renamed by the following Commissioner of Health and Senior Services, Fred M. Jacobs, M.D., J.D.; and,

**WHEREAS**, in total, Mr. Tetelman acted as the designee for seven New Jersey State Commissioners at Authority meetings over seventeen years; and,

**WHEREAS**, during that time, Mr. Tetelman consistently demonstrated utmost concern for the health care needs of all of New Jersey’s citizens; and,

**WHEREAS**, Mr. Tetelman devoted extensive time to the review and analysis of issues affecting the health care industry and always maintained a keen interest in the status of ongoing service expansions and facility acquisitions; and,

**WHEREAS**, Mr. Tetelman, has demonstrated his unwavering support of the Authority’s mission; and,

**WHEREAS**, the Authority wishes to acknowledge Mr. Tetelman's commitment to the Authority;

**NOW, THEREFORE, BE IT RESOLVED**, that the New Jersey Health Care Facilities Financing Authority hereby expresses its appreciation to Edward Tetelman for his contributions to the Authority and the citizens of New Jersey; and,

**BE IT FURTHER RESOLVED**, that a copy of this Resolution of Appreciation be sent to Mr. Tetelman as a tribute from the Authority for his service and accomplishments as the designated representative of both the Department of Human Services and the Department of Health and Senior Services.

## AB RESOLUTION NO. HH-102

### A RESOLUTION AUTHORIZING ACTIONS TO BE TAKEN BY AN AUTHORIZED OFFICER OF THE AUTHORITY REGARDING CONVERSION OF BONDS PREVIOUSLY ISSUED BY THE AUTHORITY AS AUCTION RATE BONDS

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**WHEREAS**, the Authority was duly created and now exists under the New Jersey Health Care Facilities Financing Authority Law, P.L. 1972, c.29, as amended (N.J.S.A. 26:2I-1, et seq.) (the “**Act**”), for the purpose of ensuring that all health care institutions have access to financial resources to improve the health and welfare of the citizens of the State of New Jersey (the “**State**”); and

**WHEREAS**, the Authority is authorized under the Act to make loans to “health care organizations” for the construction of “projects” (as such terms are defined in the Act) and to issue its bonds for the purpose of carrying out its powers under the Act; and

**WHEREAS**, the Authority has previously authorized and issued certain bonds on behalf of various “health care organizations” (hereinafter, each a “Borrower” and collectively, the “**Borrowers**”) bonds for the purposes of carrying out its powers under the Act, which bonds have been issued in the form of auction rate bonds (the “**Auction Rate Bonds**”); and

**WHEREAS**, the Authority authorized the issuance of such Auction Rate Bonds pursuant to resolutions of the Authority (each, a “**Bond Resolution**” and collectively, the “**Bond Resolutions**”); and

**WHEREAS**, such Bond Resolutions, in addition to authorizing the Auction Rate Bonds, would have approved the authorization and execution of documents relating to the issuance of such Auction Rate Bonds, which documents may have included trust agreements, loan agreements, auction agreements, broker-dealer agreements and other documents necessary to provide for such issuance (the “**Bond Documents**”); and

**WHEREAS**, in most cases, such documents would also have provided for (i) the ability to change the periods for conducting auctions regarding Auction Rate Bonds, (ii) the ability to convert Auction Rate Bonds to other types of products, including other variable rate products or fixed rate products; (iii) the ability to, upon the conversion of such Auction Rate Bonds to another variable rate product, to appoint additional parties under the documents, including, but not limited to, remarketing agents, substitute credit facility providers, additional liquidity providers and tender agents and (iv) the ability to do other things necessary to provide for the marketing and issuance of the Auction Rate Bonds in connection with the conversion; and

**WHEREAS**, the Authority realizes that the market for Auction Rate Bonds has become extremely volatile in recent days and that many auctions are not able to find buyers at rates that have been customary in the auction bond market, the result of which has been a significant increase in the borrowing rates for the Borrowers; and

**WHEREAS**, the Authority realizes that the Borrowers need to be able to have a great deal of flexibility in determining alternative solutions to the problems that each of them have in connection with their respective obligations to make payments under their loan arrangements with the Authority to support the Auction Rate Bonds, and may, on short notice, need to request assistance of the Authority regarding the conversion of Auction Rate Bonds to another mode as permitted under the Bond Documents; and

**WHEREAS**, it is the intention of the Authority to facilitate such conversions, it being understood that the issuance of refunding bonds would require additional action of the Authority beyond the purview of this Resolution; and

**WHEREAS**, the provisions of the Bond Documents and the policies of the Authority would need to be followed to accomplish these conversions and the Authority desires to provide as much assistance as feasible through the delegation to officers of the Authority the necessary authority to accomplish these solutions under the Bond Documents and the Authority policies; and

**WHEREAS**, the Authority has deemed it advisable to delegate the Authority set forth below solely with respect to such Auction Rate Bonds as are outstanding on the date of adoption of this Resolution so as to facilitate conversion to other variable rates or to a fixed rate as permitted under the provisions of such documents, which conversions may be made with or without bond insurance, credit enhancement or some other form of liquidity;

**NOW THEREFORE BE IT RESOLVED**, by the Authority, as follows:

**Section 1. Authorization under the Bond Resolution and the Bond Documents.** The Chairman, Vice Chairman, Secretary, Treasurer, Assistant Secretary, Assistant Treasurer, Executive Director or Deputy Executive Director of the Authority (each an “**Authorized Officer**”) are each hereby designated as an Authorized Officer of the Authority for purposes of this resolution. Notwithstanding the provisions of any Bond Resolution or Bond Document regarding an Auction Rate Bond as described in the recitals hereto to the contrary, any actions authorized under any of such documents to be accomplished by the Authority is hereby delegated to be authorized to be accomplished by an Authorized Officer of the Authority. As such, any Authorized Officer of the Authority is each hereby authorized and directed to execute, acknowledge and deliver, and a Secretary or Assistant Secretary is each hereby authorized and directed to affix and attest the seal of the Authority to any documents or any supplements or amendments to any Bond Documents that are required in the opinion of bond counsel to the Authority and the Attorney General to accomplish the purposes for which such actions are reasonably necessary, and such documents or amendments and supplements shall be in substantially such forms as such counsel may advise and the officers executing the same may approve, such approval to be evidenced by their execution thereof; provided that any such supplement or amendment shall be solely for the purpose of (i) providing a missing term in connection with the conversion of the interest rate mode of an issue of Auction Rate Bonds, (ii) to meet a legal requirement arising as a result of such conversion; or (iii) be made to meet the requirement of a bond insurer, letter of credit issuer, liquidity provider or rating agency .

**Section 2. Appointment of Remarketing Agent, Tender Agent, Substitute Credit Facility Provider and Liquidity Provider.** The Authorized Officers of the Authority are hereby authorized to appoint, upon the request of a Borrower, a Remarketing Agent, Tender Agent, Substitute Credit Facility Provider, Liquidity Provider or other entity, as necessary with respect to the conversion of any Auction Rate Bond made in accordance with the respective Bond Resolution and Bond Documents. Such appointment shall only be made if the Borrower has shown compliance with the provisions of the Authority’s policies and procedures regarding the appointment of the same, including compliance with policies relating to executive orders of the Governor.

**Section 3. Approval of Negotiated Sale or Private Placement.** The Authority understands that there is a great amount of volatility in the market for Auction Rate Bonds and that, as part of the solution, it may be necessary to remarket such Auction Rate Bonds as variable rate bonds or fixed rate bonds. As such, the Authority hereby finds that it is necessary in connection with the remarketing of the Auction Rate Bonds to approve a negotiated sale for such remarketing or, in the alternative, to approve a private placement of such Auction Rate Bonds if

the Borrower so requests. The Authority hereby authorizes an Authorized Officer of the Authority, to appoint a remarketing agent or managing underwriter (and co-managers, if necessary) or private placement purchaser, as the case may be, at the request of the Borrower, all chosen in accordance with the policies and procedures of the Authority, as supplemented by this resolution.

**Section 4. Interest Rates, Fees, Etc.** Except when such converted bonds become Bank Bonds, the interest rates on the converted bonds will not exceed the maximum interest rate provided in the Bond Document, and in no event shall exceed a true interest cost of 15%. Any Remarketing Agent appointed as provided in Section 2 above will be paid a fee, for a conversion to a variable rate mode, agreed to by the respective Borrower and the Authorized Officer of the Authority, provided, that, the initial remarketing agent fee shall not exceed 50 basis points per \$1,000 (\$5.00 per \$1,000 bond) of the principal amount of bonds being converted and the ongoing annual remarketing fee shall not exceed 25 basis points per \$1,000 bond (\$2.50 per \$1,000 bond) applied to the outstanding principal amount of the bonds. In the case of a conversion to fixed rate debt, the maximum remarketing agent or managing underwriter fee shall not exceed \$15.00 per \$1,000 of the principal amount of the converted bonds. Any Substitute Credit Facility Provider or Liquidity Provider fees shall be in amounts as agreed to by the Borrower and in no event shall the Authority be a party to the reimbursement agreement with any Substitute Credit Facility Provider or Liquidity Provider. In the case of any conversion to fixed rate debt, the final maturity shall be no later than the date specified in Bond Documents and any Authorized Officer is hereby authorized to approve redemption premiums, provided that no maximum redemption premium shall exceed the lesser of the maximum redemption premium set forth in the existing Bond Documents or 5%.

**Section 5. Contract of Purchase, Remarketing Agreement, Etc.** Any Authorized Officer is hereby authorized to execute and deliver on behalf of the Authority a contract of purchase or remarketing agreement as the situation may require (a "Contract of Purchase" or "Remarketing Agreement") by and among the Authority, the Remarketing Agent (or Managing Underwriter) (selected as provided above), on behalf of itself and any additional underwriters or managers appointed pursuant to this Section, and the applicable Institution in the form determined by and as shall be approved by an Authorized Officer, with the advice of the applicable Bond Counsel to the Authority and the Attorney General of the State (such approval to be evidenced conclusively by such Authorized Officer's execution thereof) for the purchase of any particular series of converted bonds at the price or prices to be agreed upon; provided; however, that the remarketing agent fee or managing underwriter fee for any particular series of bonds shall be as set forth above. A copy of the Remarketing Agreement or Contract of Purchase as executed shall be filed with the records of the Authority; (iii) the Authority hereby delegates to an Authorized Officer the appointment and determination of any co-senior managing underwriter and co-managers (collectively, the "Underwriters"), which firms shall be selected from the list previously approved by the Authority. The Remarketing Agent or Managing Underwriter shall be compensated in an amount or amounts as set forth above, with the execution of the Remarketing Agreement or Contract of Purchase being conclusive evidence of such approval; (iv) any particular series of converted bonds shall be dated and shall bear interest at such rate or rates set forth for the applicable maturities in the Remarketing Agreement or Contract of Purchase and in conformance with this Resolution; provided, however, that the true interest cost for any particular series of converted bonds shall not exceed the interest rate set forth above; and (iv) any particular series of converted bonds shall mature as set forth in the Remarketing Agreement or Contract of Purchase, in each of the years and in the amounts set forth in the Remarketing Agreement or Contract of Purchase; provided, that such maturity amounts and the final maturity date are otherwise in conformance with the provisions of this Resolution.

**Section 6. Official Statements, Remarketing Disclosure Documents, Etc.**The Authority hereby authorizes the preparation, publication and distribution of a preliminary disclosure document in the form determined by and as shall be approved by an Authorized Officer, with the advice of the applicable Bond Counsel to the Authority and the Attorney General of the State (a copy of which shall be filed with the records of the Authority) (the "Preliminary Disclosure Document"). Any Authorized Officer is hereby authorized to "deem final" the Preliminary Disclosure Document with respect to any particular series of converted bonds in accordance with Rule 15(c)2-12 of the Securities and Exchange Commission, if applicable.

Any Authorized Officer of the Authority is hereby authorized and directed to execute and deliver a final disclosure document (the "Final Disclosure Document"), in substantially the form of applicable Preliminary Disclosure Document with respect to any particular series of converted bonds, with such changes, insertions and alterations as the Authorized Officer executing same shall approve with the advice of the applicable Bond Counsel of the Authority and the Attorney General of the State, such approval to be evidenced conclusively by the execution thereof by such Authorized Officer (a copy of which shall be filed with the records of the Authority). The titles of the disclosure documents referred to in this Section 6 shall be as determined by an Authorized Officer of the Authority.

**Section 7. Incidental Action.** The Authorized Officers of the Authority are hereby authorized and directed to execute and deliver such other documents and to take such other action as may be necessary or appropriate in order to effectuate the foregoing on behalf of a Borrower. Any action taken by an Authorized Officer pursuant to the terms of this Resolution shall be reported to the Authority at its next succeeding meeting.

**Section 8. Prior Resolutions, Expiration of this Resolution.** All prior resolutions of the Authority or portions thereof inconsistent herewith are hereby replaced. The Authorizations provided by this Resolution shall expire on December 31, 2008.

**Section 9. Effective Date.** This Resolution shall take effect ten (10) days, exclusive of Saturdays, Sundays and public holidays, after delivery (and not including the day of delivery) to the Governor of the minutes of the meeting of the Authority at which this Bond Resolution is adopted or such earlier time as the Governor signs a statement of approval, all in accordance with the subsection (i) of Section 4 of the Act.

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**NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY**

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**SUPPLEMENT TO  
SERIES RESOLUTION**

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**REVENUE BONDS,  
HACKENSACK UNIVERSITY MEDICAL CENTER ISSUE  
SERIES 2008**

**TO PROVIDE FOR THE REFUNDING OF ALL OR A PORTION OF THE  
AUTHORITY’S OUTSTANDING HACKENSACK UNIVERSITY MEDICAL CENTER  
ISSUE, SERIES 2004 AND TO INCREASE THE AUTHORIZED  
AGGREGATE PRINCIPAL AMOUNT TO NOT TO EXCEED \$300,000,000**

**Adopted: February 28, 2008**

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**SUPPLEMENT TO SERIES RESOLUTION  
AUTHORIZING THE ISSUANCE OF NEW JERSEY HEALTH CARE FACILITIES  
FINANCING AUTHORITY REVENUE BONDS  
HACKENSACK UNIVERSITY MEDICAL CENTER ISSUE,  
SERIES 2008**

**WHEREAS**, the Authority was duly created and now exists under the Act for the purpose of ensuring that all health care institutions have access to financial resources to improve the health and welfare of the citizens of the State of New Jersey; and

**WHEREAS**, the Authority duly adopted on October 29, 1992 its General Resolution; and

**WHEREAS**, the General Resolution authorizes the issuance by the Authority, from time to time, of its revenue bonds, in one or more series, for the authorized purposes of the Authority; and

**WHEREAS**, the General Resolution provides that bonds of the Authority shall be issued pursuant to a series resolution; and

**WHEREAS**, on January 24, 2008, the Authority adopted a series resolution authorizing the issuance of its Revenue Bonds, Hackensack University Medical Center Issue, Series 2008 in an amount not to exceed \$150,000,000 (the “**Original Series Resolution**”) for the purposes set forth therein including, but not limited to, the Project (the “**Original Purpose**”), and a public hearing in accordance with Section 147(f) of the Code (as hereinafter defined), was conducted for the issuance of the Series 2008 Bonds (as hereinafter defined) after public notice of such hearing was published in accordance with such Section of the Code; and

**WHEREAS**, the Authority has outstanding \$146,900,000 principal amount of its Hackensack University Medical Center Issue, Series 2004 (the “**Series 2004 Bonds**”) originally issued on February 26, 2004 pursuant to a resolution adopted by the Authority on January 22, 2004 and a Trust Agreement by and between the Authority and the Trustee dated as of February 1, 2004, as amended and restated; and

**WHEREAS**, the Series 2008 Bonds have not yet been issued by the Authority, and the Institution, a nonprofit corporation, duly organized and existing under the laws of the State of New Jersey and a health care organization under the Act, has requested the Authority to amend the Original Purpose of the Series 2008 Bonds to include the refunding of all or a portion of the outstanding Series 2004 Bonds (the “**Bonds to be Refunded**”); and

**WHEREAS**, and the Authority deems it necessary and in keeping with its purposes to issue, under the General Resolution, the Original Series Resolution and this Supplement to the Series Resolution, the Series 2008 Bonds therein authorized for the purpose of lending to the Institution, funds that, together with other funds provided by the Institution, will be used to finance the costs of (i) the Original Purpose, (ii) the refunding of all or a portion of the Bonds to be Refunded (the “**Series 2004 Refunding Project**”) and (iii) paying certain additional costs incidental to the issuance and sale of the Series 2008 Bonds relating to the Refunding of the Series 2004 Bonds, including deposits to certain funds created under the General Resolution, the Original Series Resolution or hereunder.

**NOW, THEREFORE, BE IT RESOLVED** by the Authority, as follows:

## ***DEFINITIONS AND AUTHORITY FOR SUPPLEMENT TO SERIES RESOLUTION***

### **Definitions.**

(a) As used in this Supplement to Series Resolution, unless the context otherwise requires, all words and terms that are defined in Section 1.01 of the General Resolution, Section 1.1 of the Original Series Resolution or Section 1.1 of the Loan Agreement shall have the same meaning in this Supplement to Series Resolution as are given to such words and terms by Section 1.01 of the General Resolution, Section 1.1 of the Original Series Resolution or Section 1.1 of the Loan Agreement, as the case may be, unless such words or terms are otherwise defined in this Section 1.1.

(b) The following terms shall have the meanings specified in the recitals to this Supplement to Series Resolution:

“Bonds to be Refunded”  
“Original Purpose”  
“Original Series Resolution”  
“Series 2004 Refunding Project”  
“Series 2004 Bonds”

In addition, as used in this Supplement to Series Resolution, unless the context requires otherwise, the following terms shall have the following meanings:

“**Loan**” means the loan of the proceeds of the Series 2004 Bonds to the Borrower for the Original Purpose and the Series 2004 Refunding Project.

“**Resolutions**” means, collectively, the General Resolution, the Original Series Resolution and this Supplement to Series Resolution.

“**Series Resolution**” means the Original Series Resolution authorizing the Series 2008 Bonds as supplemented by this Supplement to Series Resolution.

“**Series 2008 Bonds**” means the bonds designated New Jersey Health Care Facilities Financing Authority Revenue Bonds, Hackensack University Medical Center Issue, Series 2008, authorized to be issued pursuant to the General Resolution and the Series Resolution in the aggregate principal amount described in Section 2.2(a) hereof.

“**Supplement to Series Resolution**” means this Supplement to Series Resolution that supplements the Original Series Resolution adopted by the Authority on January 24, 2008.

### **Authority for the Supplement to Series Resolution.**

This Supplement to Series Resolution is adopted pursuant to and in accordance with the provisions of the Act and Sections 2.02 and Article IX of the General Resolution. This Supplement to Series Resolution is adopted by the Authority for the purpose of supplementing the Original Series Resolution. The General Resolution, the Original Series Resolution and this Supplement to Series Resolution shall be read, taken and construed as one and the same instrument only for purposes in connection with the Series 2008 Bonds. The provisions of this

Supplement to Series Resolution shall remain in effect and shall be deemed as part of the Original Series Resolution for so long as the Series 2008 Bonds remains Outstanding. To the extent that the provisions of this Supplement to Series Resolution are inconsistent with the provisions of the General Resolution or the Original Series Resolution, the provisions of this Supplement to Series Resolution shall control.

**AUTHORIZATION OF THE SERIES 2004 REFUNDING PROJECT  
Supplemental Purpose of the Series 2008 Bonds.**

The Authority hereby declares the Series 2004 Refunding Project to be an authorized undertaking of the Authority and authorizes and directs an Authorized Officer to execute and deliver all documents necessary to enable the Authority, as permitted by the Act, to lend the Institution, which together with other amounts provided by the Institution, will be sufficient funds to, in addition to financing the Original Purpose, (a) refund of all or a portion of the Bonds to be Refunded and (b) pay certain additional costs incidental to the issuance and sale of the Series 2008 Bonds relating to the Series 2004 Refunding Project, including deposits to certain funds created under the General Resolution and the Original Series Resolution.

**Authorization of Series 2008 Bonds.**

In connection with the Authority's authorization of the Series 2004 Refunding Project, the Authority hereby authorizes an increase of \$150,000,000 in the aggregate principal amount of the Series 2008 Bonds such that the issuance of the Series 2008 Bonds shall yield proceeds to the Authority, exclusive of any original issue discount, of at least the amount necessary to accomplish the purposes for which the Series 2008 Bonds are issued, but not in excess of \$300,000,000 in order to make the Loan to the Institution, the proceeds of which, together with other moneys of the Institution, if any, are to be used for the purposes described in Section 2.1 hereof.

The Series 2008 Bonds may be issued in one or more subseries, each in the form authorized in the Original Series Resolution, and in the respective amounts that shall be as set forth in the Certificate, but which aggregate amount of such Series 2008 Bonds shall not exceed the amount set forth in Section 2.2(a) above.

**Forms of Loan Agreement, Preliminary Official Statement and Bond Purchase Contract;  
Authorization to Subscribe for SLGS.**

The forms of the Loan Agreement, the Preliminary Official Statement and the Bond Purchase Contract presented to the meeting at which the Original Series Resolution was adopted and which the Authority approved shall be amended as necessary as Counsel may advise and the Authorized Officer executing the same may approve, such approval to be evidenced by such Authorized Officer's execution thereof, in order to reflect the Series 2004 Refunding Project and this Supplement to Series Resolution.

Any Authorized Officer of the Authority is hereby authorized if necessary, to direct the Trustee for the Bonds to be Refunded to file an application for the purchase of State and Local Government Series ("SLGS") securities for deposit into the escrow account established under a letter of instructions.

## ***MISCELLANEOUS***

### **Incidental Action.**

In connection with the authorization of the Series 2004 Refunding Project, the Authorized Officers of the Authority are hereby authorized and directed to execute and deliver such other documents, and to take such other action as may be necessary or appropriate in order to (a) effectuate the issuance and sale of the Series 2008 Bonds and (b) maintain the tax-exempt status of the interest on the Series 2008 Bonds (including the preparation and filing of any information reports or other documents with respect to the Series 2008 Bonds as may at any time be required under the Code), including a letter of instructions to provide for the investment and use of proceeds relating to the Series 2004 Refunding Project.

### **Prior Resolutions.**

Except for the Original Series Resolution, as supplemented hereby, all prior resolutions of the Authority or portions thereof inconsistent herewith are hereby repealed.

### **Amendments.**

This Supplement to Series Resolution may be amended and supplemented by a Supplemental Resolution adopted pursuant to the provisions of the General Resolution.

### **Effective Date.**

This Supplement to Series Resolution shall take effect ten (10) days, exclusive of Saturdays, Sundays and public holidays, after delivery to the Governor of the State of New Jersey of the minutes of the meeting of the Authority at which this Supplement to Series Resolution is adopted or at such earlier time as the Governor of the State of New Jersey signs a statement of approval, all in accordance with subsection (i) of Section 4 of the Act.

**AB RESOLUTION NO. HH-104**

**RESOLUTION OF INTENT TO ISSUE REVENUE BONDS BY  
NEGOTIATED TRANSACTION PURSUANT TO  
EXECUTIVE ORDER NO. 26**

*Atlantic Health System*

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**WHEREAS**, the New Jersey Health Care Facilities Financing Authority (the “Authority”) was duly created and now exists under the New Jersey Health Care Facilities Financing Authority Law, P.L. 1972, c. 29, N.J.S.A. 26:2I-1 et seq., as amended (the “Act”), for the purpose of ensuring that all health care organizations have access to financial resources to improve the health and welfare of the citizens of the State; and,

**WHEREAS**, the Authority issues its bonds from time to time for the achievement of its authorized purposes; and

**WHEREAS**, on October 25, 1994, the Governor issued Executive Order No. 26 which sets forth procedures by which an issuer may determine the method of sale of bonds or notes; and,

**WHEREAS**, on December 8, 1994, the Authority adopted Section 2 of its policy which was developed to implement Executive Order No. 26, which requires an Authority resolution to pursue a negotiated sale of bonds; and,

**WHEREAS**, on March 28, 1996, the Authority amended its policy related to Executive Order No. 26; and,

**WHEREAS**, the Authority’s policy states that a negotiated sale of bonds will be conducted if it is determined by the Authority that it would better serve the requirements of a particular financing; and,

**WHEREAS**, a negotiated transaction would be permitted in circumstances including, but not limited to, the sale of bonds for a complex or poor credit; the development of a complex financing structure, including those transactions that involve the simultaneous sale of more than one series with each series structured differently; volatile market conditions; large issue size; programs or financial techniques that are new to investors; or, for variable rate transactions; and,

**WHEREAS**, Atlantic Health System has entered into a Memorandum of Understanding with the Authority to pursue a revenue bond financing (the “Financing”); and,

**WHEREAS**, Atlantic Health System has requested that the Authority consider approving the pursuit of a negotiated sale; and,

**WHEREAS**, the proposed issue size could be considered large; and,

**WHEREAS**, Atlantic Health System is considering the issuance of variable rate bonds for all or a portion of the Financing; and,

**WHEREAS**, the Financing may be of a complex structure, including the involvement of the simultaneous sale of more than one series with each series structured differently; and,

**WHEREAS**, market conditions could be considered volatile; and,

**WHEREAS**, the Authority is desirous of being responsive to Atlantic Health System's request; and,

**WHEREAS**, the aforementioned resolution and justification in support of such resolution must be filed, within five days of its adoption, with the State Treasurer;

**NOW, THEREFORE, BE IT RESOLVED**, that, based upon the above findings, the Authority hereby determines that it would better serve the requirements of this Financing to conduct a negotiated sale; and,

**BE IT FURTHER RESOLVED**, that the Executive Director is hereby directed and authorized to transmit a copy of this Resolution and justification in support of such resolution to the State Treasurer.



**AB RESOLUTION NO. HH-105**

**RESOLUTION OF INTENT TO ISSUE REVENUE BONDS BY  
NEGOTIATED TRANSACTION PURSUANT TO  
EXECUTIVE ORDER NO. 26**

***Underwood Memorial Hospital***

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**WHEREAS**, the New Jersey Health Care Facilities Financing Authority (the “Authority”) was duly created and now exists under the New Jersey Health Care Facilities Financing Authority Law, P.L. 1972, c. 29, N.J.S.A. 26:2I-1 et seq., as amended (the “Act”), for the purpose of ensuring that all health care organizations have access to financial resources to improve the health and welfare of the citizens of the State; and,

**WHEREAS**, the Authority issues its bonds from time to time for the achievement of its authorized purposes; and

**WHEREAS**, on October 25, 1994, the Governor issued Executive Order No. 26 which sets forth procedures by which an issuer may determine the method of sale of bonds or notes; and,

**WHEREAS**, on December 8, 1994, the Authority adopted Section 2 of its policy which was developed to implement Executive Order No. 26, which requires an Authority resolution to pursue a negotiated sale of bonds; and,

**WHEREAS**, on March 28, 1996, the Authority amended its policy related to Executive Order No. 26; and,

**WHEREAS**, the Authority’s policy states that a negotiated sale of bonds will be conducted if it is determined by the Authority that it would better serve the requirements of a particular financing; and,

**WHEREAS**, a negotiated transaction would be permitted in circumstances including, but not limited to, the sale of bonds for a complex or poor credit; the development of a complex financing structure, including those transactions that involve the simultaneous sale of more than one series with each series structured differently; volatile market conditions; large issue size; programs or financial techniques that are new to investors; or, for variable rate transactions; and,

**WHEREAS**, Underwood Memorial Hospital has entered into a Memorandum of Understanding with the Authority to pursue a revenue bond financing (the “Financing”); and,

**WHEREAS**, Underwood Memorial Hospital has requested that the Authority consider approving the pursuit of a negotiated sale; and,

**WHEREAS**, Underwood Memorial Hospital is considering the issuance of variable rate bonds for all or a portion of the Financing; and,

**WHEREAS**, the Financing may be of a complex structure, including the involvement of the simultaneous sale of more than one series with each series structured differently; and,

**WHEREAS**, market conditions could be considered volatile; and,

**WHEREAS**, the Authority is desirous of being responsive to Underwood Memorial Hospital's request; and,

**WHEREAS**, the aforementioned resolution and justification in support of such resolution must be filed, within five days of its adoption, with the State Treasurer;

**NOW, THEREFORE, BE IT RESOLVED**, that, based upon the above findings, the Authority hereby determines that it would better serve the requirements of this Financing to conduct a negotiated sale; and,

**BE IT FURTHER RESOLVED**, that the Executive Director is hereby directed and authorized to transmit a copy of this Resolution and justification in support of such resolution to the State Treasurer.

**AMENDMENT TO ALL RESOLUTIONS IN  
WHICH THE AUTHORITY APPROVES A  
BORROWER'S REQUEST TO USE A SELF-  
INSURANCE/CAPTIVE PROGRAM, THUS  
MANDATING COMPLIANCE WITH  
NJHCFFA REPORTING REQUIREMENTS**  
(adopted November 20, 2003)

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1. Pursuant to a resolution adopted November 20, 2003, the Authority has accepted the coverages set forth in the plans of self-insurance (in the form of a self-insurance trust) or captive insurance, as the case may be (the "Accepted Plan") of the entity referred to in the Resolution (the "Borrower"). With respect to the Accepted Plan, the Borrower shall, on an annual basis, provide to the Authority
  - a. a certification that (i) a written actuarial evaluation with respect to such self-insurance or captive insurance company programs from a nationally recognized Insurance Consultant; (ii) a report from such Insurance Consultant to the effect that such self-insurance or captive insurance company program shall not disqualify or materially adversely affect the Borrower for reimbursement under Medicare or Medicaid programs or any governmental programs providing similar benefits or establishing rates and charges for health care services; and (iii) evidence that adequate reserves for such programs have been or will be deposited and maintained with an independent corporate trustee in an amount acceptable to the Authority, which shall be at least equal to the amount required by the report referred to in clause (i) above and (iv) a copy of the annual audit of the self-insurance trust or the captive insurance company, as applicable, has been provided to the Insurance Rating Agency within one hundred fifty (150) days of the end of the fiscal year of such self-insurance trust or captive insurance company, respectively;
  - b. within nine (9) months of the end of the fiscal year of the self-insurance trust or captive insurance company, as applicable, evidence of receipt of a Qualified Insurance Rating from an Insurance Rating Agency; and
  - c. such other additional documents as the Authority may require.
2. In the event that the Borrower is not able to comply with clause (b) above, it will be deemed to be not in compliance with this resolution unless the Borrower, by the commencement of the next succeeding fiscal year of the Borrower, shall have (i) procured insurance as required under its loan documents with the Authority or (ii) provided a Qualified Insurance Rating..
3. As referred to herein,
  - a. "Insurance Consultant" shall mean an independent firm of insurance agents, brokers or consultants which is appointed by the Borrower for the purpose of reviewing and recommending insurance coverages for the facilities and operations of the Borrower, and has a favorable reputation for skill and experience in performing such services in respect of facilities and operations of a comparable size and nature; provided that any entity so appointed is not

b. "Insurance Rating Agency" shall mean A.M. Best Company, or its successor, or such other rating service that customarily provides ratings for insurance companies or coverage and is acceptable to the Authority.

c. Qualified Insurance Rating shall mean a rating that is at least "investment grade" or "secure" as defined by A.M. Best Company, or such similar rating as defined by any other Insurance Rating Agency.

## **Proposed Insurance Covenant**

February 28, 2007

(a) The Borrower agrees that it shall maintain or cause to be maintained with financially sound and reputable insurers, qualified to do business and in good standing in the State of New Jersey, insurance of the kinds and in amounts customary and reasonable for a facility of similar type and size unless otherwise specified herein:

- (i) At all times fire, extended coverage, vandalism, and malicious mischief insurance with such other deductible provisions as are usual for similar facilities, on the plant, structure, machinery, equipment and apparatus comprising its health care facilities. The foregoing insurance shall be maintained so long as any of the Bonds are outstanding and shall be in an amount not less than eighty percent (80%) of the replacement value of such facilities, exclusive of excavations and foundations. So far as the same may be reasonably procurable, any such policy shall provide that the insurance company shall give at least thirty (30) days notice in writing to the Bond Trustee and the Authority of the cancellation of such policy. In any event each such policy shall be in an amount sufficient to prevent such Borrower from becoming a co-insurer under the applicable terms of such policy;
- (ii) At all times, workers' compensation insurance, disability insurance, and each other form of insurance which such Borrower is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees;
- (iii) At all times, insurance protecting the Authority and such Borrower against loss or losses from liabilities imposed by law or assumed in any written contract and arising from the death or bodily injury or damage to the property of others caused by accident or occurrence (including a contractual liability endorsement);
- (iv) At all times, medical liability, malpractice and other hospital operation liability insurance in sufficient amounts and layers to protect the Authority and such Borrower against claims arising from the professional services performed by such Borrower;
- (v) Fidelity insurance in such amounts and under such terms as shall be determined by the Authority with due regard to each Borrower's funds and accounts;
- (vi) Boiler and machinery coverage (direct damage and use and occupancy) on a replacement cost basis, unless waived by the Authority;
- (vii) Where a mortgage is required, title insurance in the full face amount of the Bonds, insuring the interest of the mortgagee in the mortgaged property and the priority of the mortgage lien created by the mortgage;
- (ix) At all times, trustees' and officers' liability and vehicle liability insurance coverage; and
- (x) Business interruption and special equipment insurance in such minimum amounts as shall be determined by the Borrower and its Insurance

Consultant with due regard to the Borrower's outstanding debt obligations.

(b) All policies and certificates of insurance required hereby shall be open to inspection by the Authority and the Trustee at all reasonable times. Certificates of insurance describing such policies shall be furnished by the Borrower to the Authority and to the Trustee at or prior to the delivery of the Bonds and annually upon renewal of each policy. Within seven and one-half months of the hospital's fiscal year end the Borrower shall furnish to the Authority and the Trustee: (i) an insurance reporting form describing such policies as evidenced by insurance certificates; (ii) a certificate signed by the chief financial officer of the Borrower stating that such insurance meets all the requirements of this Agreement, and (iii) certification addressed to the Borrower, the Trustee and the Authority by a nationally recognized independent Insurance Consultant that the types and amounts of coverage provided are customary and reasonable for institutions of similar type and size, taking into account the service mix provided by the Borrower. The Borrower will provide additional proof of insurance coverage, at any time, upon reasonable request by the Authority or the Trustee.

(c) If any change shall be made in such insurance as to either amount or type of coverage, a description and notice of such change shall be immediately furnished to the Authority and to the Trustee by the Borrower. In the event that insurance required hereunder is not maintained, the Authority may, upon such notice to the Borrower as is reasonable under the circumstances, procure and maintain such insurance at the expense of the Borrower.

(d) Upon a written request of the Borrower, the Authority reserves the right to permit modifications of, or substitutions for the insurance required to be maintained by this Section \_\_\_\_ or by the Resolutions, including permission for the Borrower to be covered by self-insurance or to have a captive insurance company program in whole or in part for any such coverage, all upon such terms and conditions as the Authority may require. In making its decision to permit such modifications or substitutions the Authority shall consider the potential risk to the Borrower and the Authority, the availability of insurance, the terms upon which insurance is available, the cost of available insurance, and the effect of such terms and such rates upon the Borrower's costs and charges for their service. In making any such determinations, the Authority may request and rely upon reports provided by the Borrower's retained professionals. In addition the Borrower will provide (i) an actuarial study prepared by a licensed independent actuary, (ii) a legal opinion that there will be no material adverse effect for reimbursement under Medicare and Medicaid programs or any governmental programs providing similar benefits or establishing rates and charges for health care services, (iii) a detailed structure of the self-insurance or captive insurance program including the oversight committee and all service providers, including legal firms and accountants (iv) a list of employed physicians covered under the program (self-insurance and captive insurance program approval will be limited to employed physicians only), (v) a list of incidents to be reported to Borrower's current insurer prior to the effective date of self-insurance or captive insurance program (vi) insurance trust agreements or captive insurance program licenses issued by the appropriate corporate or governmental body, (vii) list of excess insurance carriers and reinsurance providers. The Borrower shall pay any fees charged by such Insurance Consultant and other professionals and any expenses incurred by the Authority.

The Borrower shall give written notice to the Trustee of any modifications or substitutions made pursuant to this paragraph, and shall indicate in such notice the effective date of such modifications or substitutions. The Authority's decision to permit the modifications or substitutions aforesaid shall be in the Authority's sole and absolute discretion.

(e) In the event that the Borrower self insures or insures through a captive insurance company, the Borrower shall at commencement of such coverage, and on an annual basis (no later than the anniversary date of the commencement of such coverage), either obtain a Qualified Insurance Rating and provide such rating report to the Authority or:

- i) Provide certification addressed directly to the Borrower, Trustee and the Authority from a licensed independent actuary specializing in the type of insurance being provided and not unacceptable to the Authority, that based upon an actuarial study, the total discounted held reserves plus capital and surplus in the self-insurance or captive insurance program, limited to those funds that cannot be drawn upon by the borrower for use in operations or otherwise unrelated to payment of claims, are at least equal to the discounted 75<sup>th</sup> percent confidence level (that expected total unpaid losses will not exceed the total indicated funding level for such coverage) and identifying the assumptions relied upon by the actuary in its determination; such assumptions shall not be unacceptable to the Authority and,
- ii) Provide opinion of counsel addressed directly to Borrower, Trustee and the Authority that the self-insurance or captive insurance program is in compliance with the laws and regulations of the state and/or country of domicile, and not in contravention of any laws or regulations of the State of New Jersey and,
- iii) Provide evidence to the Trustee and the Authority that the self-insurance or captive insurance program has been audited by a nationally recognized independent firm of public accountants and has received an unqualified opinion or such form of opinion not unacceptable to the Authority

(f) In the event that the Borrower is not able to comply with clause (e), the Borrower shall procure insurance as required under subsection (a) of this Section within 90 days of the anniversary date (referred to in (e)) or other such date acceptable to the Authority.

(g) Notwithstanding anything set forth herein to the contrary, the provisions of this Section may be amended and supplemented by the Authority in its sole and absolute discretion, and without consent of the Bondholder, Trustee or the Borrower in order that such provisions shall be consistent with the Authority's policies then in effect.

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**NEW JERSEY HEALTH CARE  
FACILITIES FINANCING AUTHORITY**

**RESOLUTION AUTHORIZING A “SECOND AMENDMENT AND SUPPLEMENT TO  
LOAN AND SECURITY AGREEMENT AND MORTGAGE DATED AS OF MARCH 15,  
1997”, BY AND AMONG THE AUTHORITY, HOLY NAME HOSPITAL AND THE  
BANK OF NEW YORK, AS TRUSTEE**

**Adopted: February 28, 2008**

**RESOLUTION AUTHORIZING A “SECOND AMENDMENT AND SUPPLEMENT TO  
LOAN AND SECURITY AGREEMENT AND MORTGAGE DATED AS OF MARCH 15,  
1997”, BY AND AMONG THE AUTHORITY, HOLY NAME HOSPITAL AND THE  
BANK OF NEW YORK, AS TRUSTEE**

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**WHEREAS**, the New Jersey Health Care Facilities Financing Authority (the “Authority”) was duly created and now exists under the New Jersey Health Care Facilities Financing Authority Law, P.L. 1972, c. 29 (N.J.S.A. 26:21-1 et. seq.), as amended (the “Act”), for the purpose of encouraging the timely construction and modernization, including the equipping, of hospital and other health-care facilities and of other facilities incidental or appurtenant thereto; and

**WHEREAS**, the Authority duly adopted, on October 29, 1992, its General Health Care Facilities Registered Bond Resolution (the “General Resolution”); and

**WHEREAS**, the General Resolution authorized the issuance by the Authority from time to time of its revenue bonds, in one or more series, for the authorized purposes of the Authority; and

**WHEREAS**, the Authority adopted a Series Resolution on February 27, 1997 authorizing the issuance of its Revenue Bonds, Holy Name Hospital Issue, Series 1997 (the “Series 1997 Bonds”) in the aggregate principal amount of not to exceed \$85,000,000; and

**WHEREAS**, the Authority and Holy Name Hospital (the “Institution”) entered into that certain “Loan and Security Agreement and Mortgage”, dated as of March 15, 1997 (the “Original Agreement and Mortgage”), pursuant to which the Authority agreed to lend to the Institution and the Institution agreed to borrow from the Authority the proceeds from the sale of the Series 1997 Bonds; and

**WHEREAS**, pursuant to Section 5.03 of the Original Agreement and Mortgage, the Authority executed and delivered an Assignment, dated as of March 15, 1997 (the “Assignment”), of the Original Agreement and Mortgage to The Bank of New York (the “Trustee”), as trustee with respect to the Series 1997 Bonds and the Series 2006 Bonds (as hereinafter defined), subject to the reservation of certain rights by the Authority as specified in such Assignment; and

**WHEREAS**, the Authority adopted a Series Resolution on April 27, 2006 authorizing the issuance of its Revenue Bonds, Holy Name Hospital Issue, Series 2006 (the “Series 2006 Bonds”) in the aggregate principal amount of not to exceed \$60,000,000; and

**WHEREAS**, in connection with the issuance of the Series 2006 Bonds, the Authority, the Institution and the Trustee entered into that certain “Amendment and Supplement to Loan and Security Agreement and Mortgage Dated as of March 15, 1997 and Mortgage Consolidation Agreement”, dated as of June 15, 2006 (the “First Amendment”; the Original Agreement and Mortgage, as amended by the First Amendment, shall be referred to herein as the “Existing Agreement and Mortgage”; capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed to such terms in the Existing Agreement and Mortgage); and

**WHEREAS**, on November 22, 2006, pursuant to the provisions of Sections 6.06(A)(3) and 6.07(A)(3) of the Existing Agreement and Mortgage, the Institution entered into that certain “Guaranty, Suretyship and Security Agreement and Intercreditor Agreement”, dated as of November 22, 2006 (the “Guaranty Agreement”), by the Institution in favor of Bank of America, National Association, pursuant to which the Institution guaranteed the payment of certain obligations incurred by FitnessFirst Oradell Center, L.L.C.; and

**WHEREAS**, pursuant to Section 6.07(A)(3) of the Existing Agreement and Mortgage, the consent of AMBAC Assurance Corporation, as provider of a municipal bond insurance

policy with respect to the Series 1997 Bonds (the “Bond Insurer”), was required prior to the execution and delivery by the Institution of the Guaranty Agreement; and

**WHEREAS**, in connection with the provision by the Bond Insurer of such consent, the Bond Insurer requested that the Institution pursue, inter alia, certain amendments to Section 6.08(D) of the Existing Agreement and Mortgage, such amendments to be in a form to be agreed upon by the Bond Insurer and the Institution thereafter; and

**WHEREAS**, the Authority, the Institution and the Trustee desire to amend the Existing Agreement and Mortgage, pursuant to a “Second Amendment and Supplement to Loan and Security Agreement and Mortgage Dated as of March 15, 1997”, in substantially the form attached hereto as Exhibit A and made a part hereof (the “Second Amendment”), for the purpose of complying with the request of the Bond Insurer in connection with its consent to the Guaranty Agreement; and

**WHEREAS**, the provisions of the Second Amendment shall include, without limitation, as provisions thereof, (i) the amendment to Section 6.08(D) of the Existing Agreement and Mortgage as such amendment is set forth in Section 1 of the form of the Second Amendment that is attached hereto as Exhibit A and made a part hereof, which amendment relates to the calculation of the Applicable Percentage with respect to Guaranteed Obligations of the Institution when determining Debt Service Requirements, and (ii) the supplement to the Existing Agreement and Mortgage as such supplement is set forth in Section 2 of the form of the Second Amendment that is attached hereto as Exhibit A and made a part hereof, which supplement relates to the agreement by the Institution that it will not entrust any of its funds with a banking institution to which the Institution is obligated for borrowed money, unless the banking institution has relinquished its statutory or contractual right of setoff; and

**WHEREAS**, pursuant to Section 9.02 of the Existing Agreement and Mortgage, so long as the rights of the holders of the Bonds (as defined in the Existing Agreement and Mortgage) are not adversely affected thereby, the parties to the Existing Agreement and Mortgage may amend the Existing Agreement and Mortgage at any time; and

**WHEREAS**, the provisions of the Second Amendment do not adversely affect the rights of the holders of the Bonds.

**NOW, THEREFORE, BE IT RESOLVED** by the New Jersey Health Care Facilities Financing Authority, as follows:

**SECTION 1** Approval of Second Amendment. The form of the Second Amendment, a copy of which is attached hereto as Exhibit A and made a part hereof, is hereby approved. Any Authorized Officer (as defined in the General Resolution) of the Authority is hereby authorized and directed to execute and to deliver, and any other Authorized Officer of the Authority is hereby authorized and directed to affix and to attest the seal of the Authority to, the Second Amendment, in substantially such form, with such changes therein as counsel may advise and the Authorized Officers executing the same may approve, such approval to be evidenced by their execution thereof.

**SECTION 2.** Incidental Action. The Authorized Officers of the Authority are hereby authorized and directed to execute and to deliver such other documents, instruments and agreements, and to take such other action, as may be necessary or appropriate in order to effectuate the execution and the delivery of the Second Amendment.

**SECTION 3.** Effective Date. This Resolution shall take effect upon the occurrence of ten (10) days, exclusive of Saturdays, Sundays and public holidays, after delivery to the Governor of the minutes of the meeting of the Authority at which the Resolution is adopted or at such earlier time as the Governor signs a statement of approval, all in accordance with subsection (i) of Section 4 of the Act.

## **EXHIBIT A**

### **SECOND AMENDMENT**

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**SECOND AMENDMENT AND SUPPLEMENT TO LOAN AND SECURITY  
AGREEMENT AND MORTGAGE DATED AS OF MARCH 15, 1997**

**HOLY NAME HOSPITAL  
(as Mortgagor)**

**AND**

**NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY**

**AND**

**THE BANK OF NEW YORK  
(Mortgagee)  
(as Assignee of the Authority)**

Record and Return to:  
Richard T. Nolan, Jr., Esq.  
McCarter & English, LLP  
Four Gateway Center  
100 Mulberry Street  
Newark, New Jersey 07102

This SECOND AMENDMENT AND SUPPLEMENT TO LOAN AND SECURITY AGREEMENT AND MORTGAGE DATED AS OF MARCH 15, 1997 (this "Amendment"), made and entered into as of \_\_\_\_\_, 2008, by and among the NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY (the "Authority"), a public body corporate and politic and a political subdivision of the State of New Jersey having its principal office at Station Plaza, Building #4, Trenton, New Jersey 08625, HOLY NAME HOSPITAL (the "Institution" or the "Mortgagor"), a not-for-profit corporation duly incorporated and existing under the laws of the State of New Jersey, having its principal office at 718 Teaneck Road, Teaneck, New Jersey 07666, and THE BANK OF NEW YORK, a banking corporation organized and existing under the laws of the State of New York, with trust and fiduciary powers in the State of New Jersey, having its principal office at 285 Rifle Camp Road, West Paterson, New Jersey 07424 (the "Trustee" or the "Mortgagee").

**WHEREAS**, the Authority was duly created and now exists under the New Jersey Health Care Facilities Financing Authority Law, P.L. 1972, Chapter 29 (N.J.S.A. 26:2I-1, et seq.), as amended (the "Act"), for the purpose of encouraging the timely construction and modernization, including the equipping, of hospital and other health-care facilities and of other facilities incidental or appurtenant thereto; and

**WHEREAS**, the Authority duly adopted, on October 29, 1992, its General Health Care Facilities Registered Bond Resolution (the "General Resolution"); and

**WHEREAS**, the General Resolution authorized the issuance by the Authority from time to time of its revenue bonds, in one or more series, for the authorized purposes of the Authority; and

**WHEREAS**, the Authority adopted a Series Resolution on February 27, 1997 authorizing the issuance of its Revenue Bonds, Holy Name Hospital Issue, Series 1997 (the "Series 1997 Bonds") in the aggregate principal amount of not to exceed \$85,000,000; and

**WHEREAS**, the Authority and the Institution entered into that certain "Loan and Security Agreement and Mortgage", dated as of March 15, 1997 (the "Original Agreement and Mortgage"), pursuant to which the Authority agreed to lend to the Institution and the Institution agreed to borrow from the Authority the proceeds from the sale of the Series 1997 Bonds; and

**WHEREAS**, the Original Agreement and Mortgage was filed for record on April 9, 1997, in the Office of the Clerk of Bergen County, New Jersey, in Mortgage Book 09397, Page 851, encumbering certain real property as described therein to which reference is hereby made for a description of said property as fully and to the same extent as though herein at length set forth; and

**WHEREAS**, pursuant to Section 5.03 of the Original Agreement and Mortgage, the Authority executed and delivered an Assignment, dated as of March 15, 1997 (the "Assignment"), of the Original Agreement and Mortgage to the Trustee, subject to the reservation of certain rights by the Authority as specified in such Assignment; and

**WHEREAS**, the Authority adopted a Series Resolution on April 27, 2006 authorizing the issuance of its Revenue Bonds, Holy Name Hospital Issue, Series 2006 (the "Series 2006 Bonds") in the aggregate principal amount of not to exceed \$60,000,000; and

**WHEREAS**, in connection with the issuance of the Series 2006 Bonds, the Authority, the Institution and the Trustee entered into that certain "Amendment and Supplement to Loan and Security Agreement and Mortgage Dated as of March 15, 1997 and Mortgage Consolidation Agreement", dated as of June 15, 2006 (the "First Amendment"; the Original Agreement and Mortgage, as amended by the First Amendment, shall be referred to herein as the "Existing

Agreement and Mortgage”; capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed to such terms in the Existing Agreement and Mortgage); and

**WHEREAS**, the First Amendment was filed for record on June 28, 2006, in the Office of the Clerk of Bergen County, New Jersey, in Mortgage Book 1048, Page 440, encumbering certain real property as described therein to which reference is hereby made for a description of said property as fully and to the same extent as though herein at length set forth; and

**WHEREAS**, on November 22, 2006, pursuant to the provisions of Sections 6.06(A)(3) and 6.07(A)(3) of the Existing Agreement and Mortgage, the Institution entered into that certain Guaranty, Suretyship and Security Agreement and Intercreditor Agreement, dated as of November 22, 2006 (the “Guaranty Agreement”), by the Institution in favor of Bank of America, National Association, pursuant to which the Institution guaranteed the payment of certain obligations incurred by FitnessFirst Oradell Center, L.L.C.; and

**WHEREAS**, pursuant to Section 6.07(A)(3) of the Existing Agreement and Mortgage, the consent of AMBAC Assurance Corporation, as provider of a municipal bond insurance policy with respect to the Series 1997 Bonds (the “Bond Insurer”), was required prior to the execution and delivery by the Institution of the Guaranty Agreement; and

**WHEREAS**, in connection with the provision by the Bond Insurer of such consent, the Bond Insurer requested that the Institution pursue, inter alia, certain amendments to Section 6.08(D) of the Existing Agreement and Mortgage, such amendments to be in a form to be agreed upon by the Bond Insurer and the Institution thereafter; and

**WHEREAS**, the Authority, the Institution and the Trustee desire to amend the Existing Agreement and Mortgage for the purpose of complying with the request of the Bond Insurer in connection with its consent to the Guaranty Agreement; and

**WHEREAS**, pursuant to Section 9.02 of the Existing Agreement and Mortgage, so long as the rights of the holders of the Bonds (as defined in the Existing Agreement and Mortgage) are not adversely affected thereby, the parties to the Existing Agreement and Mortgage may amend the Existing Agreement and Mortgage at any time; and

**WHEREAS**, the provisions of this Amendment do not adversely affect the rights of the holders of the Bonds.

**NOW, THEREFORE**, for and in consideration of the premises herein set forth, the Authority, the Institution and the Trustee, each binding itself, its successors and assigns, do mutually promise, covenant and agree as follows:

**SECTION 1.** Amendment to Section 6.08(D) of the Existing Agreement and Mortgage. Section 6.08(D) of the Existing Agreement and Mortgage is hereby amended so as to add the following paragraph at the conclusion thereof:

“Notwithstanding any provision of this paragraph (D) to the contrary, on each occasion on which a Guaranteed Obligation is incurred by the Institution pursuant to Section 6.06(A) hereof and is secured by the Institution pursuant to Section 6.07(A)(3) hereof, the Applicable Percentage for purposes of this paragraph (D) with respect to such Guaranteed Obligation, in each case, shall be equal to 100%.”

**SECTION 2.** Supplement to Existing Agreement and Mortgage Adding New Section 6.25. The Existing Agreement and Mortgage is hereby supplemented for the purpose of including a new Section 6.25, as set forth below:

“Section 6.25. Banking Deposits. The Institution will not entrust any of its funds with a banking institution to which the Institution is obligated for borrowed money, unless the banking institution has relinquished its statutory or contractual right of setoff.”

**SECTION 3.** Existing Agreement and Mortgage to Remain in Effect. All other provisions of the Existing Agreement and Mortgage, not amended by this Amendment, shall remain in full force and effect.

**SECTION 4.** Amendment Effective Immediately. This Amendment shall be effective immediately.

**SECTION 5.** Severability. In the event any provision of this Amendment shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

**SECTION 6.** Execution in Counterparts. This Amendment may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 7.** Applicable Law and Regulations. This Amendment shall be governed by and construed in accordance with the laws of the State, including the Act.

[The remainder of this page has been left blank intentionally.]

**IN WITNESS WHEREOF**, the parties hereto have each caused this Amendment to be executed under seal by their duly authorized officers as of the date first above written.

[SEAL]

Attest:

[TITLE]

HOLY NAME HOSPITAL

[SEAL]

By: \_\_\_\_\_

[NAME]

[TITLE]

Attest:

NEW JERSEY HEALTH CARE FACILITIES FINANCING  
AUTHORITY

By: \_\_\_\_\_

[NAME]

[TITLE]

By: \_\_\_\_\_

[NAME]

[TITLE]

[SEAL]

Attest:

By: \_\_\_\_\_

[NAME]

[TITLE]

THE BANK OF NEW YORK

Consented and Agreed :  
AMBAC Assurance Corporation

By: \_\_\_\_\_

[NAME]

[TITLE]

By: \_\_\_\_\_

[NAME]

[TITLE]

By: \_\_\_\_\_

[NAME]